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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,411	12/10/2001	Yoshitaka Mishima	SHC0163	8643

7590

06/23/2003

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/016,411

Applicant(s)

MISHIMA ET AL.

Examiner

Jamisia A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the liquid-impervious skin-facing sheet attached to said skin-facing side must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Currently as claimed, the only other element which has a skin-facing side is the absorbent panel, and the drawings do not show the skin-facing sheet being attached to the absorbent panel.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With respect to Claim 1: the phrase "a pair of transversely opposite side regions curving transversely inward on both sides of said longitudinally middle region, so as to define a pair of leg holes and at least one opening formed in said longitudinally middle region" is indefinite. It is unclear to the examiner if this means the curving of the sides causes the opening in the middle region, is this the leg openings?

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5. With respect to Claim 1: the phrase "a tensile stress of said skin-facing sheet is higher than a tensile stress..." is indefinite. This phrase is grammatically incorrect. The examiner believes there is a typo in the claims and the word "that" should be "than", due to the fact that it is unclear what "higher than a tensile strength" is referring to.

6. With respect to Claim 2: the phrase "a tensile stress of said skin-facing sheet is higher in said peripheral edge region of said at least one opening than a basis weight of the remaining region" is indefinite. It is unclear to the examiner how one can compare a tensile strength with a basis weight when they are two different measurements, therefore how can you have a tensile strength that is higher than a basis weight? Is this in numbers only?

7. Claim 5 recites the limitation "the leak-barrier sheet" in line 10. There is insufficient antecedent basis for this limitation in the claim. The claim previously uses a pair of leak barrier sheets, meaning a plurality, this is referring to a single sheet, therefore it is unclear which sheet of the pair this phrase is referring to.

8. Claim 6 recites the limitation "said skin-facing side of said undergarment" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

9. With respect to Claim 6: the phrase "said leak-barrier sheets are attached under tension....to....said undergarment" is indefinite. The undergarment includes both the skin-facing sheet and the barrier-sheet, therefore it is unclear if these are attached to themselves?

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Suekane (US 2001/0023342).
12. Sukane discloses the use of a disposable undergarment (1) with a liquid impervious topsheet (200), a backsheet (3) and a core (4) disposed there between. Sukane discloses the topsheet curving inward to form leg openings (See figure 1), and having an opening (14) in the middle region. Sukane discloses the topsheet being attached to the peripheral regions by use of adhesive (35), therefore causing an increase in basis weight around the leg openings.
13. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Mishima et al. (6,527,756).
14. With respect to Claim 1, 2, and 4: Mishima discloses the use of an absorbent article (1) with a liquid impervious backsheet (3), absorbent core (4) and a liquid impervious topsheet (7). Mishima discloses the use of elastics through out the topsheet, therefore being elastically stretchable (see all figures). Mishima also discloses the topsheet (7) curving inward and forms leg openings and having an opening in the middle region (See Figures 5 and 6). Mishima discloses the opsheet being colded back on top of itself around the leg openings and around the opening in the middle region (See Figure 6), therefore having a higher basis weight and hence tensile strength in those regions.
15. With respect to Claims 3 and 7: See Figures 5 and 6.

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16. With respect to Claims 5 and 6: See reference numeral 18, column 6, lines 46-50 and Figure 6.

*Conclusion*


17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ostubo (6,497,693) discloses the use of an article with a pucker down the center, Kitaoka (5,342,342), Tanji (5,429,632), Vandemoortele (5,672,166) and Kielpikowski (5,669,896) disclose the use of a liquid-impervious topsheet that is folded over around a central opening and Mishima et al. (6,458,114) discloses the use of impermeable topsheets with openings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw  
June 15, 2003

  
WEILUN LO  
SUPERVISORY PATENT EXAMINER  
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